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**DIGEST OF OTHER RECENT VIRGINIA DECISIONS.****Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

GLASS *v.* COLUMBIAN PAPER CO. *et al.*

Nov. 17, 1910.

[69 S. E. 354.]

**1. Evidence (§ 29\*)—Judicial Notice—Statute Laws.**—The Supreme Court of Appeals will take judicial notice of the statute laws of the state.

[Ed. Note.—For other cases, see Evidence, Cent. Dig. §§ 36-48; Dec. Dig. § 29.\* 8 Va.-W. Va. Enc. Dig. 640.]

**2. Eminent Domain (§§ 317, 323\*)—Rights Acquired—Abandonment—Riparian Rights.**—Acts 1840-41, c. 91, chartered the North River Navigation Company, to render navigable the waters of North river by a system of dams, locks, and canals. For many years the river was successfully navigated. Complainant in 1906 acquired the land on the west bank of the river opposite dam No. 6, and disputed the title of the navigation company and its successors to the exclusive use of the water at that dam, alleging that any right originally acquired had been abandoned. The bill, however, attached an advertisement of the sale of the land subsequently acquired by complainant, which showed that the water rights had been condemned by the navigation company. Held, that the condemnation of such water rights vested the fee-simple title thereto in the navigation company as against the riparian owners, which rights were not lost by the abandonment of navigation, and hence plaintiff was not entitled thereto as against the company's grantees.

[Ed. Note.—For other cases, see Eminent Domain, Cent. Dig. §§ 836, 860; Dec. Dig. §§ 317, 323.\* 5 Va.-W. Va. Enc. Dig. 114.]

Appeal from Circuit Court, Rockbridge County.

Bill by T. H. Glass against the Columbian Paper Company and others. From a decree sustaining a demurrer to the bill, plaintiff appeals. Affirmed.

ASHWORTH *et al.* *v.* BROWN *et al.*

Nov. 17, 1910.

[69 S. E. 362.]

**Fraudulent Conveyances (§ 95\*)—Consideration.**—Where one had a lot conveyed to his wife, and thereon built a house, and she after-

\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r indexes.

wards joined in a deed thereof, only on his agreement to build her another house of equal value, and at the time thereof he was not in debt, his subsequent conveyance of a lot to her, and building thereon of a house of equal value, was on a valuable consideration, and not in fraud of his then existing creditors.

[Ed. Note.—For other cases, see *Fraudulent Conveyances*, Cent. Dig. §§ 243-288; Dec. Dig. § 95.\* 6 Va.-W. Va. Enc. Dig. 611.]

Appeal from Circuit Court, Wise County.

Suit by Ashworth and others against Brown and others. From an adverse decree, complainants appeal. Affirmed.

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SUTHERLAND *v.* EMSWILLER.

Nov. 17, 1910.

[69 S. E. 363.]

**Frauds, Statute of (§ 56\*)—Parol Boundary Agreement—Transfer of Title.**—Where the deeds to plaintiff and defendant from their common grantor established the dividing line as the middle line of a ten-foot alley between the two lots conveyed, the fact that prior to the deed to plaintiff the common grantor and defendant agreed by parol that the division line should be nearer plaintiff's side of the alley than as called for by the deeds, and built a fence there, could not prevent plaintiff from recovering possession up to the line called for by the deeds; title to land not being transferable by parol.

[Ed. Note.—For other cases, see *Frauds, Statute of*, Cent. Dig. §§ 83-89, 136-138; Dec. Dig. § 56.\* 2 Va.-W. Va. Enc. Dig. 594.]

Error to Circuit Court, Shenandoah County.

Action of ejectment by Benjamin Sutherland against Fanny M. Emswiller. Judgment for defendant, and plaintiff brings error. Reversed.

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SANDS & OLIVER *v.* QUIGG.

Nov. 17, 1910.

[69 S. E. 440.]

**1. Set-Off and Counterclaim (§ 28\*)—Right of Set-Off—Contract Action.**—In an action by a subcontractor to recover a balance due under his contract, the principal contractor could set off any damages for breach of the subcontractor's contract with them.

[Ed. Note.—For other cases, see *Set-Off and Counterclaim*, Cent. Dig. §§ 47, 48; Dec. Dig. § 28.\* See all 12 Va.-W. Va. Enc. Dig. 275.]

**2. Contracts (§ 303\*)—Performance—Excuses for Nonperformance.**—That other subcontractors, as well as the principal contractor,

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.